

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

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APR 24 2015



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GOVERNOR

LEGISLATIVE ENVIRONMENTAL
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DIRECTOR'S OFFICE (406) 444-2684

STATE OF MONTANA

WATER RESOURCES DIVISION (406) 444-6601
TELEFAX NUMBERS (406) 444-0533 / (406) 444-5918
<http://www.dnrc.mt.gov>

1424 9TH AVENUE
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HELENA, MONTANA 59620-1601

Cover Letter


April 16th, 2015

TO: Governor's Office, Tracy Stone-Manning, Rm. 204, State Capitol, P.O. Box 200801, Helena, MT 59620-0801
Environmental Quality Council, Capitol Building, Room 106, P.O. Box 201704, Helena, MT 59620
Dept. of Environmental Quality, Metcalf Building, P.O. Box 200901, Helena, MT 59620-0901
Director's Office
Dept. of Natural Resources and Conservation, 1625 11th Ave. Helena, MT 59620
Director's Office
Information Services Section
Water Resources Division, 1424 9th Ave., P.O. Box 201601, Helena, MT 59620-1601
Kim Overcast, DNRC Water Resources Div., Billings Regional Office, Airport Business Park, 1371
Rimtop Dr., Billings, MT 59105-1978
Montana Department of Fish, Wildlife & Parks, 1420 E. 6th Ave. Helena, MT 59620
Director's Office
Gary Hammon, DFWP Region 5 Office, 2300 Lake Elmo Dr., Billings, MT 59105
MT State Library, 1515 E. Sixth Ave., P.O. Box 201800, Helena, MT 59620
Allen Bell, President, Rock Creek Water Users Association, 53 Bell Rd. Roberts, MT 59070
Montana Environmental Information Center, P.O. Box 1184, Helena, MT 59624
Montana Audubon Council, P.O. Box 595, Helena, MT 59624
Carbon County Commissioners, County Administration Building, 17 West 11th Street, PO Box 887
Red Lodge, MT 59068
Wildlife Federation, P.O. Box 1175, Helena, MT 59624
Trout Unlimited, P.O. Box 7186, Missoula, MT 59807
Northern Plains Resource Council, 2401 Montana Ave. Suite 200, Billings, MT 59626-2336
U.S. Army Corps of Engineers, 10 W. 15th St. Suite 2200, Helena, MT 59626
U.S. Fish and Wildlife Service, MT Field Office, 584 Shepard Way, Suite 1, Helena, MT 59601

Ladies and Gentlemen:

The enclosed Finding of No Significant Impact / Decision Notice has been prepared for the Cooney Reservoir Land Sale. Please feel free to contact James Domino at (406) 444-6622 (e-mail jdomino@mt.gov) should you have any questions about the Notice or would like additional project information. Questions and information requests should be directed to: MT Dept. of Natural Resources and Conservation, State Water Projects Bureau, 1424 9th Avenue, P.O. Box 201601, Helena, MT 59620-1601, attn. James P. Domino. Copies of the Final EA are available upon request. The Final EA can also be viewed on the DNRC website at www.dnrc.mt.gov. Thank you.

Sincerely,


Tim Davis
Administrator,
Water Resources Division

STATE WATER PROJECTS
BUREAU
(406) 444-6646

WATER MANAGEMENT
BUREAU
(406) 444-6637

WATER OPERATIONS
BUREAU
(406) 444-0860

WATER RIGHTS
BUREAU
(406) 444-6610

FINDING OF NO SIGNIFICANT IMPACT-
NOTICE OF DECISION

April 16th, 2015

Dear Reader:

The Montana Department of Natural Resources and Conservation (DNRC), State Water Projects Bureau (SWPB) released a draft Environmental Assessment (EA) on March 2nd, 2015 on the Cooney Reservoir Land Sale. The dam and reservoir is owned by the DNRC, SWPB and operated and maintained by the Rock Creek Water Users Association. Cooney Dam and Reservoir are located on Red Lodge Creek in Carbon County, approximately 7 miles west of Boyd, Montana. The earthfill dam is 102 feet high, has a crest length of 2369 feet, and impounds 28,230 acre-feet of water at full pool. The water is used for supplemental irrigation on approximately 20,000 acres. Additional benefits include recreational use and flood control, although no specific allocations to these uses currently exist. The original dam was completed in 1937.

This project involves the sale of two parcels of State Water Projects Bureau property on the south side of the reservoir. This property was acquired by the State Water Conservation Board in 1937. State Water Project Bureau (SWPB) involvement in this property is no longer needed, as no benefits are provided to the Cooney project. The sale of such properties into private ownership absolves the SWPB of any liability and reduces administrative duties and associated costs. The benefits of the sale will be a direct, one-time infusion of revenue into the Water Storage Account (per statute) that can be used for other state water project repair, maintenance and/or rehabilitation needs, as determined by the SWPB. The local tax base would also be enhanced by the sale of the property into private ownership.

The SWPB is authorized to sell, transfer to water users' association, abandon, lease or rent, or otherwise dispose of any rights-of way, easements, properties, or interests or otherwise take and receive the income or profit and revenue from property without regard to other laws that would otherwise pertain to the disposition of state property (Mont. Code Ann. § 85-1-211). However, the SWPB is required to determine the market value of the property (Mont. Code Ann. § 85-1-211(5) (a)). The determination of market value must consider all liens, encumbrances, and other limitations. A market value determination was included in the EA (Appendix A).

The Montana Department of Environmental Quality (DEQ), Montana Department of Fish, Wildlife and Parks, Montana Natural Heritage Program, and the State Historic Preservation Office were consulted as part of the draft EA process. The public comment period closed on Wednesday, April 1st, 2015, with two comments received.

The Montana DEQ submitted a written comment recommending that soil disturbance buffers (setbacks) be established through deed restrictions to protect reservoir water quality from runoff which could cause increased sedimentation and siltation. The DNRC agrees on the importance of protecting water quality from potential degradation, and that setbacks and buffers can be appropriate measures to achieve this goal, however; the two parcels in question border a county road and do not extend to the reservoir shore (i.e. the county road is between the property boundary and shoreline). Therefore, setbacks and/or buffer zones are not deemed necessary in this particular case. The U.S. Army Corps of Engineers (COE) also submitted a written comment in which they indicated that land transactions do not require COE authorization; however if any future development occurs, that the lands in question should be evaluated for the presence of wetlands or waters of the United States. There are no plans by the DNRC for development of these parcels and the only

action to be undertaken is the sale of the property. Compliance with the aforementioned COE stipulations would become the responsibility of the future property owner. The DEQ or the COE did not express any opposition to the sale of the property.

Based on the EA's disclosure, comments received and analysis of potential impacts, the DNRC concludes that the proposed action will not result in any significant impacts. The DNRC will adopt the draft EA as the final EA and proceed with the sale as planned. Copies of the Final EA are available upon request. The Final EA can also be viewed on the DNRC website at www.dnrc.mt.gov in the Environmental Documents section. Please direct any questions to:

James P. Domino,
MT DNRC Water Resources Division
State Water Projects Bureau
1424 9th Ave., P.O. Box 201601
Helena, MT 59620-1601
(406) 444-6622, e-mail: jdomino@mt.gov

Thank you for your interest.

Sincerely,

A handwritten signature in blue ink, appearing to be 'TD', with a long horizontal line extending to the right.

Tim Davis
Administrator,
Water Resources Division